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In re Application of
Samuel Rose
Application No. 08/782,590
Filed: 13 January, 1997
Attorney Docket No. 43/24

ON PETITION

This is a decision on the petition filed herein 16 November, 1999, under 37 C.F.R. §1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The record indicates that: the final Office action was mailed 25 November, 1998. Petitioner's response (accompanied by a request for three- (3-) month extension of time) was filed 27 May (mail dated May 25), 1999. A telephone interview was held 4 June (memorialization mailed 8 June), and an Advisory action was mailed 17 August, 1999, setting forth that the response was considered, but did not overcome the rejection(s). Therefore, the matter went abandoned at midnight 25 May, 1999. Notice of Abandonment was mailed 17 August, 1999.

This application is being revived for the purpose of co-pendency with the continued prosecution application (CPA) filed contemporaneously with the petition on 16 November, 1999. Upon completion of that application, the instant application is expressly abandoned.

¹ Effective December 1, 1997, the provisions of 37 C.F.R. 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. 1.137(b). A grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 C.F.R. 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 C.F.R. 1.20(d)) required pursuant to 37 C.F.R. 1.137(c).

Telephone inquiries concerning this matter may be directed to Petitions Attorney John J. Gillon, Jr., at (703) 305-9199.

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